

REMARKS

Claims 1-4 and 6-13 are pending in this application, with claims 1 and 6 being independent. Claims 1, 3, 4, and 6-8 have been amended. Claims 9-11 have been previously withdrawn from consideration. Claims 12 and 13 have been added. Favorable reconsideration of the application in light of the following comments is respectfully solicited.

As a preliminary matter, Applicants thank Examiner Lin and Supervisory Examiner Parker for the thoughtful courtesies and kind treatment afforded to Applicants' representative, Babak Akhlaghi, during the telephonic interview conducted on August 19, 2008. This response reflects the substance of the interview.

Claim Rejections – 35 U.S.C. § 112

Claims 1-4 and 6-8 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Additionally, claims 1-4 and 6-8 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 1 and 6 have been amended to overcome the above-stated rejections.

Claim Rejections – 35 U.S.C. § 102

Claims 1, 2, and 4 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Number 4,996,574 ("Shirasaki"). Applicants respectfully traverse this rejection for at least the following reasons.

During the interview, the Examiners agreed that the invention described in the instant application is different from that of U.S. Patent Number 4,996,574 ("Shirasaki"). In particular, the Examiners agreed that Shirasaki, in the relied upon portions, fails to describe or suggest a

gate electrode having a planar portion extending from the upper surface of the semiconductor FIN, over the upper portion of the trench, to the portion of the semiconductor substrate in which the trench is not formed. In reliance on this agreement, Applicants have amended claim 1 to recite a semiconductor device that includes, among other features, a gate electrode formed directly on the gate insulating film and having a planar portion extending from the upper surface of the semiconductor FIN, over the upper portion of the trench, to portion of the semiconductor substrate in which the trench is not formed.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 1.

Claim Rejections - 35 U.S.C. § 103

Claims 6 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Shirasaki in view of U.S. Patent Number 6,025,628 (“Lee”) and further in view of U.S. Patent Number 7,163,851 (“Abadeer”). Claim 6 has been amended to include features similar to the above-recited features of claim 1. Applicants respectfully submit that Lee and Abadeer do not appear to remedy the shortcomings of Shirasaki to describe or suggest the above-recited features of claim 1. Lee shows a FET semiconductor device and not a FINFET device. As such, the FET of Lee is considerably different from the claimed semiconductor device in structure. Abadeer was only relied upon for an alleged teaching of forming two field-effect transistors on the same substrate. As such, Applicants do not believe that the proposed addition of subject matters from Lee and Abadeer remedies the shortcomings of Shirasaki to describe or suggest the above-recited features of claim 1.

For the foregoing reasons and the reasons presented above with respect to claim 1, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 6.

Dependent Claims

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Because claims 1 and 6 are allowable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon are also allowable. In addition, it is respectfully submitted that the dependent claims are allowable based on their own merits by adding novel and non-obvious features to the combination.

Based on the foregoing, it is respectfully submitted that all pending claims are patentable over the cited prior art. Therefore, it is respectfully requested that the rejection under §§ 102/103 be withdrawn.

Conclusion

Having fully responded to all matters raised in the Office Action, Applicant submits that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

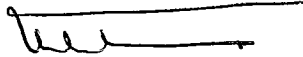
To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper,

Application No.: 10/549,291

including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Babak Akhlaghi
Limited Recognition No. L0250

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 BA:MaM
Facsimile: 202.756.8087
Date: September 16, 2008

**Please recognize our Customer No. 53080
as our correspondence address.**